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June 18, 2008

Hon. Gustave J. DiBianco
U.S. District Court
100 S. Clinton Street
P.O. Box 7367
Syracuse, New York 13261-7367

Re: Mousaw v. Board of Education of the
Colton Pierrepont CSD, et al.
Case No. 7:07-cv-01006-DNH-GJD
Our File: 18838.0001

Dear Judge DiBianco:

Please accept this as the Rule 16 case management plan in the above-referenced action, set for tele-conference on June 26, 2008 at 11:00. All counsel has had a chance to review the following and all have agreed to the following dates.

1. Joinder of parties – none anticipated at this time.
2. Amendment of pleadings – none anticipated at this time. An amended complaint has already been filed following a court order.
3. Discovery – Complete by December 1, 2008.
4. Motions – Sixty (60) days after the close of discovery or February 2, 2009 for dispositive motions. Motions to Dismiss have already been brought by all defendants and disposed of by the Court through granting in part and denying in part and therefore, further dispositive motions are likely based upon various defenses.
5. Proposed Date for Commencement of Trial – June 1, 2009.
6. Jury demand – Plaintiff will request a jury trial on all issues.
7. Subject matter jurisdiction – The Court has subject matter jurisdiction.

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8. What are the factual and legal basis for plaintiff's claim and defendant's defenses – Plaintiff maintains that the Defendants conspired to defame her in order to retaliate against her for exercising her free speech First Amendment rights as a member of the Board of Education and defendants deny these allegations.
 9. What factual and legal issues are generally in dispute – See statement No. 8 above. Motions to Dismiss have already been filed and decided which raised and resolved several disputed legal issues regarding immunity, etc., but such issues also remain.
 10. Potential dispositive motions – Defendants may bring Motions for Summary Judgment, similar to their Motions to Dismiss.
 11. What specific relief do the parties seek – Plaintiff seeks money damages and attorney's fees.
 12. Discovery plan

Subsection (A) - No changes to the Rule 26(a) disclosure requirements.

Subsection (B) - Mandatory disclosures under Rule 26(a) on August 1, 2008.

Subsection (C) Discovery Sequence – Plaintiff has propounded paper discovery, which will be followed by a request for production of documents to which defendants will respond and defendants will propound same on plaintiff. Once completed, then depositions will be taken.

Subsection (D) Written Discovery – Plaintiff has propounded special interrogatories, and will propound request for admissions and request for production of documents and it is expected that defendants will do the same.

Subsection (E) Depositions – Plaintiff and all named defendants Bristol, Silver, Bregg, White, Travers, Troutman, and Board Members. Non-party depositions are also anticipated.

Subsection (F) Experts – None anticipated at this time.

Subsection (G) Electronic Discovery – Plaintiff will be demanding electronic discovery from the school district and the Board of Education to and from all defendants and is concerned whether these electronic communications have been preserved and retained. The defendants will be making similar requests of Plaintiff and have the same concerns.

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Subsection (H) Protective Orders – Potential confidentiality issues as to school district or Board of Education records and Plaintiff's employment records.

Subsection (I) Court Intervention – Not anticipated at this time, but electronic discovery issues may require intervention if the school district has not preserved e-mails.

13. There may be some potential means to reduce the length of trial, which has already been accomplished through the Motions to Dismiss, which resolved some issues and streamlined the pleadings.
14. Related cases – None at this time, although Plaintiff has filed a Notice of Claim against her employer, St. Lawrence County.
15. Class action – Not applicable.
16. What are the prospects for settlement – Prospects for settlement are worth exploring. Any settlement would require the court and/or a mediator and the good faith participation of all parties.
17. How can settlement efforts be assisted – Plaintiff requests a settlement conference with the court or other ADR procedure.

Thank you for your attention to this matter.

Very truly yours,

O'HARA, O'CONNELL & CIOTOLI

S/ Stephen Ciotoli

Stephen Ciotoli

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